

**IV. PLANS FOR COMPLIANCE WITH THE CORE
REQUIREMENTS OF THE JJDP ACT & THE PLAN FOR
MONITORING COMPLIANCE**

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REQUIREMENTS OF THE JJDP ACT AND THE
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PLAN FOR DEINSTITUTIONALIZATION OF STATUS OFFENDERS

Update:

In the 2004 Virginia legislative session, legislation has been introduced (House Bill 1274) that would prohibit the commitment of status offenders to the Department of Juvenile Justice Reception and Diagnostic Center. DJJ's administrative practice has been to prohibit such commitments but the *Code of Virginia* permitted juveniles alleged to be *Children in Need of Services* to be placed in the temporary custody of DJJ. The Bill is currently before the Virginia Senate¹.

¹ Since the submission of the Three-Year Plan Update, the legislation has passed. The amendment to the *Code of Virginia* § 16.1-275 will be effective July 1, 2004.

PLAN FOR SEPARATION OF JUVENILES FROM ADULT OFFENDERS

Update:

Although historically Virginia has had limited complications regarding compliance with the separation requirement of the JJDP Act, a recent internal policy shift at OJJDP concerning juveniles tried and convicted as adults in circuit court (criminal court), but committed to the Department of Juvenile Justice (DJJ) for sentencing has presented the state with significant barriers towards achieving compliance. In previous monitoring years, guidance from OJJDP indicated that as long as a person had an uninterrupted stay in a juvenile correctional facility, they could remain in the facility along with incarcerated juvenile delinquents until the end of the juvenile court jurisdiction as determined by the state. Virginia has been found consistently in compliance under this guidance. However, under current guidance from OJJDP, once individuals who are convicted in circuit court but sentenced to a juvenile correctional facility reach the age of 18.5, they must be separated from incarcerated juvenile delinquents. To achieve compliance with the separation requirement of the JJDP Act, Virginia must submit a plan outlining a timetable for activities that will lead to full adherence to Section 223 (12)(a) of the JJDP Act within 2 years from the submission of the Plan.

ACTION PLAN

Issue	Strategy	Time-Frame
1. Heighten awareness of violations	An additional strategy will be to collaborate with DJJ and DOC in preparation for the completion and submission of a plan for achieving full compliance with the separation requirement.	Ongoing

PLAN FOR REMOVAL OF JUVENILES FROM ADULT JAILS AND LOCKUPS

No Change.

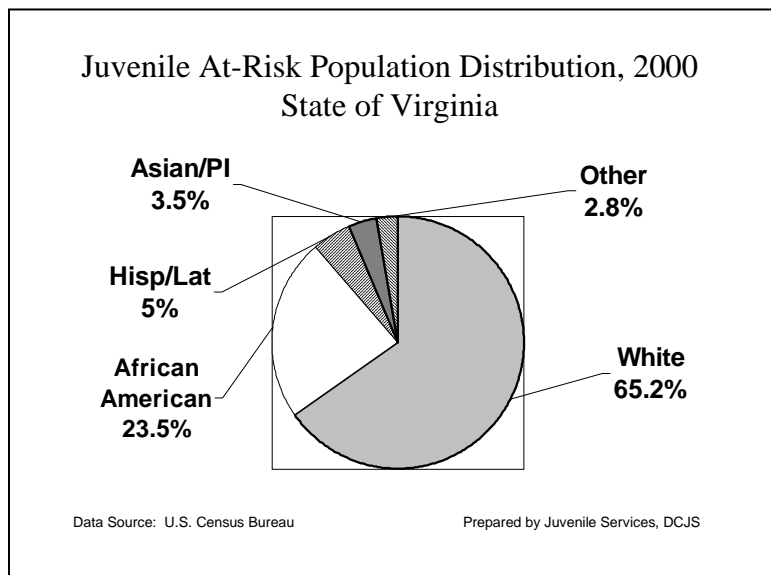
PLAN FOR REDUCING DISPROPORTIONATE MINORITY CONTACT

RELATIVE RATE INDICES

As required by the federal Office of Juvenile Justice and Delinquency Prevention, the Plan for Reducing Disproportionate Minority Contact includes data for the State and for the three localities with the largest minority juvenile population. Data for this section were collected from the U.S. Bureau of the Census and the Virginia Department of Juvenile Justice. Since the change from uniform crime reporting to incident-based reporting, the arrest data have been problematic and they are not reported.

The population data are from the 2000 Census. The intake and detention data have been updated for 2003 with information provided by Virginia's Department of Juvenile Justice. For the state, the at-risk juvenile population aged 10-17 is taken directly from the Census for each age and race and compiled. For each of the three localities, the at-risk juvenile population aged 10-17 is derived by first obtaining the aged 0-17 population by subtracting the aged 18 and over Census population from the total Census population and then estimating the aged 10-17 population at 45% of that.

The section begins with pictorial depictions of the at-risk juvenile population for the state and the three Virginia localities with the largest minority populations. Discussion of the relative rate indices follows.

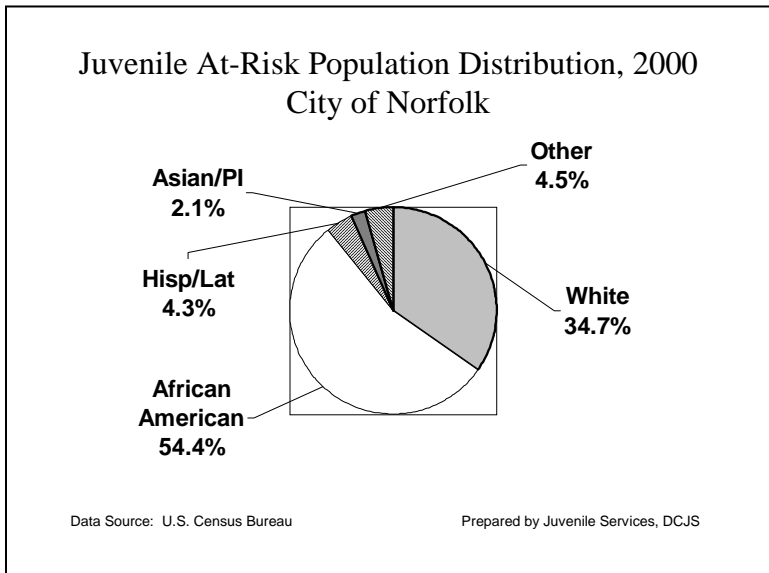
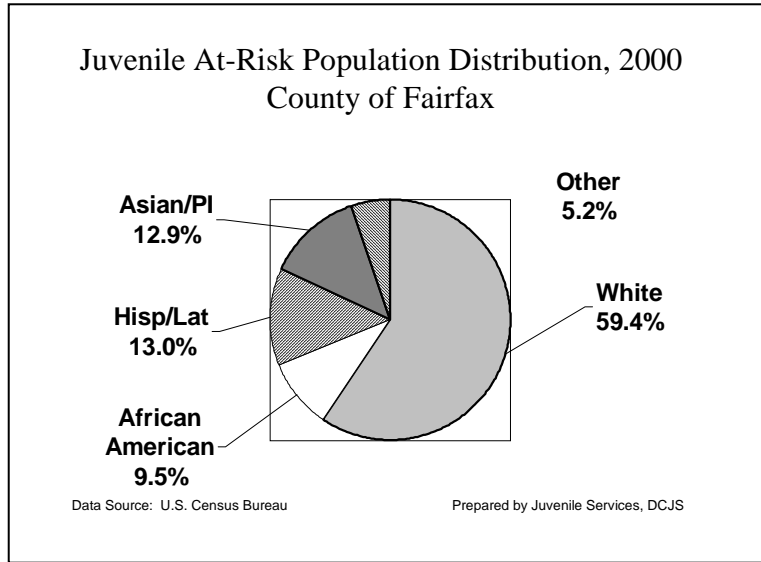


At-Risk Juvenile Population Data

The at-risk juvenile population for the State of Virginia, Fairfax County, the City of Norfolk, and the City of Virginia Beach are depicted graphically below.

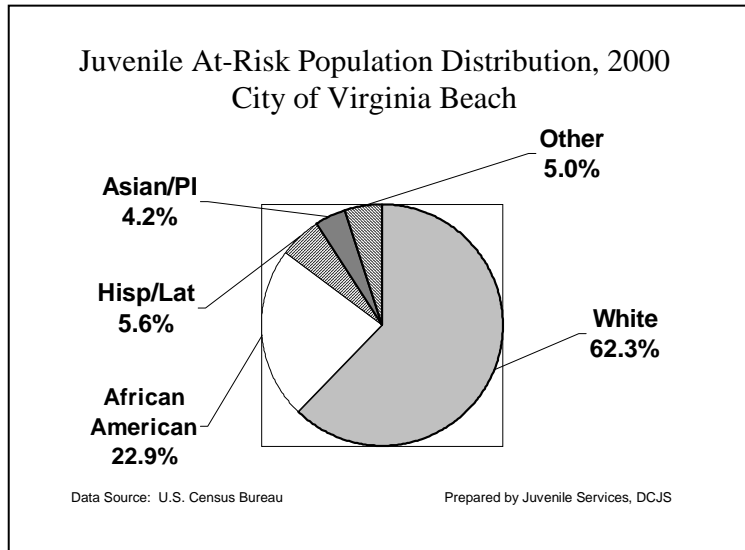
For the state overall, the juvenile at-risk population is mainly African American or white, as the pie chart shows.

The County of Fairfax has approximately the same white population as the State overall; however, the minority population is distributed quite differently. Fairfax's largest minority juvenile populations are the Asian/Pacific Islander population and the Hispanic/Latino population with about 13% each. The African American population represents less than 10% of the total.



The juvenile at-risk population for the City of Norfolk has a smaller white population than the State or Fairfax with only 35%. Norfolk's juvenile population is more than half African American.

The distribution of the juvenile population for Virginia Beach is quite similar to that of the State overall, as the pie chart shows.



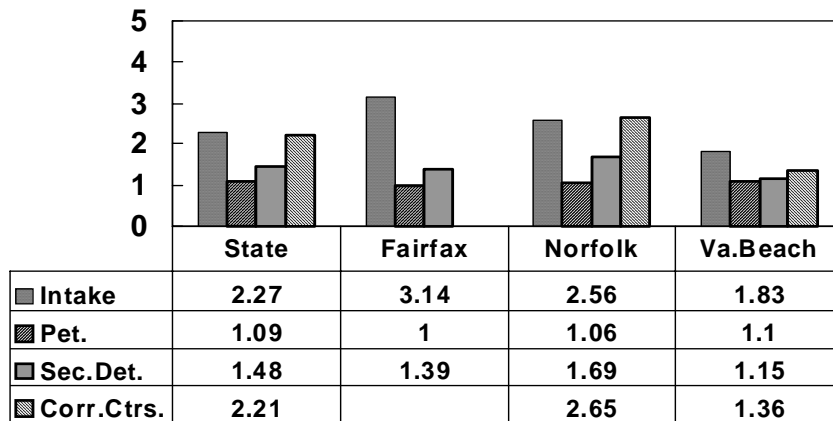
Relative Rate Indices Data

The relative rate index compares each minority group with white juveniles. To the extent that the indices are over 1.0, the minority group is overrepresented at that stage relative to white juveniles.

One of the common elements for the State and the three localities is that the relative rate index for petitioned cases is close to 1.0 for all races. Although there are problems with disproportionate minority representation at other stages in the system both before and after petitioning, there is no evidence of racial bias at the petitioning stage. This pattern has been evident for the past five or six years and is shown in the past two Three-Year Plans. The lack of bias at petitioning suggests that intake workers are finding alternatives for minority children.

For the State and the City of Norfolk, African American juveniles are overrepresented at all stages of the system except for petitioning. For Fairfax County, they are overrepresented at intake and secure detention. The index for Fairfax Correctional Center juveniles has been removed as it is based on only 12 juveniles. For the City of Virginia Beach, African American juveniles are overrepresented at intake and in juvenile correctional facilities. These data are depicted graphically in the chart below.

Relative Rate Indices for African American Juveniles at Stages in the Juvenile Justice System



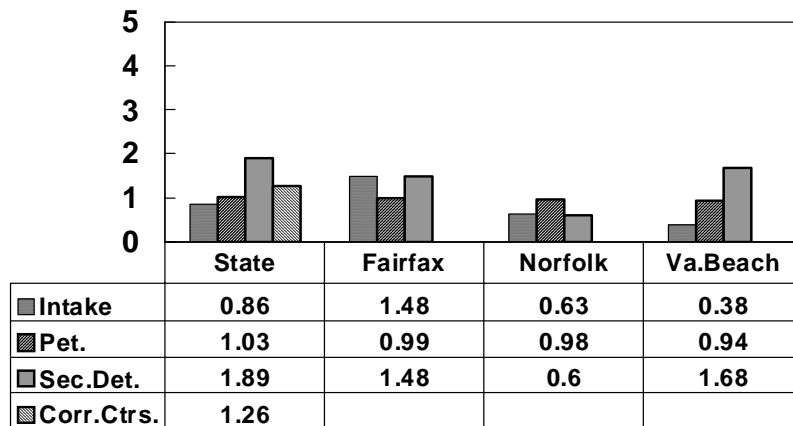
Data Sources: Dept. of Juvenile Justice
and U.S. Census Bureau

Prepared by: Juvenile Services Section, DCJS.

Hispanic juveniles are also overrepresented, relative to white juveniles, at some stages of the system and in some localities. Those data are depicted below.

For the State, Fairfax, and Virginia Beach, Hispanic juveniles are overrepresented at the secure detention stage. Indices for the localities are not

Relative Rate Indices for Hispanic Juveniles at Various Stages in the Juvenile Justice System



Data Sources: Dept. of Juvenile Justice
and U.S. Census Bureau

Prepared by: Juvenile Services Section, DCJS.

shown at the correctional center stage because of the few numbers of children involved. The numbers are 11, 1, and 0 for Fairfax, Norfolk, and Virginia Beach respectively.

The Asian/Pacific Islander population is not overrepresented in the juvenile justice system in Virginia. The only exception is the relative rate index for secure detention for Fairfax, which has a large Asian population, at the secure detention level. The index is 1.30. (There is also a 3.38 index at the correctional center stage for the City of Norfolk, but it is based on 1 child.)

The section following describes the activities that Virginia has undertaken to address disproportionate minority representation throughout the juvenile justice system. New activities are described and updated information is provided about planned activities.

INTERVENTION STRATEGY

There is no single change that will ameliorate the disproportionate representation of African American children, particularly African American males, in Virginia's juvenile justice system. The approach must be multifaceted and have the cooperation and support of the Department of Juvenile Justice, the judiciary, law enforcement, probation officers, and other professionals involved in the system. Moreover, even during this time of scarce resources, alternatives to detention are needed in communities, particularly poor communities. The lack of qualified legal representation for poor children has, undoubtedly, had an impact on their placement in the juvenile justice system and must be changed. DCJS seeks to involve our partners in the juvenile justice system to address disproportionate minority representation and to effect change.

ACCOMPLISHMENTS & PLANNED ACTIVITIES

Virginia is addressing disproportionate minority representation at all stages of the juvenile justice system. The Department of Criminal Justice Services is committed to involving its partners in the juvenile justice system, particularly the Department of Juvenile Justice. The information provided below summarizes accomplishments since the submission of the Three-Year Plan, describes the status of ongoing projects, and provides current information about planned activities.

Legislative Change

Clarification of Criteria for Detention of Probation Violators

The 2002 General Assembly passed legislation² to ensure that a juvenile probation or parole violator may be detained in a secure detention facility for violation of probation/parole only if the offense for which the juvenile was placed on probation or parole would have been a felony or Class 1 misdemeanor if committed by an adult. This precludes confinement of juveniles in secure detention facilities for parole violation when their original offense was a status offense. This legislative change is expected to reduce the number of juveniles in secure detention facilities and may reduce the proportion of minority juveniles in confinement.

Update: Between the 2002 and 2003 fiscal years, there has been a 10% reduction in the number of children detained in secure detention facilities for

² Va. Code Ann § 16.1-248.1(A1).

probation/parole violations. This change in criteria may be one of the reasons for the reduction.

Cultural Awareness Training for Police Officers

The Virginia Community Policing Institute provides cultural awareness training to local police departments throughout the State. The 2002 General Assembly passed legislation³ requiring DCJS to publish a policy or guideline to expand the compulsory training standards for police officers to ensure awareness of cultural diversity and the potential for biased policing.

Update: The revised Compulsory Minimum Training Standards are available on the DCJS web site at

<http://www.dcjs.org/StandardsTraining/CompulsoryMinimumTraining>.

New: Appointment of Counsel for Detention Hearings

In the 2004 General Assembly Session, House Bill 600 provides for the appointment and compensation of counsel prior to an initial juvenile detention hearing. The Bill has passed the House and is now before the Virginia Senate⁴. Current law provides for such appointment at the detention review hearing and affords the opportunity for a detention review hearing once counsel is appointed.

Policies and Procedures

Grantees to Address Disproportionate Minority Representation

It is now a priority area for Title II funding.

New: Subcommittees of the Advisory Committee on Juvenile Justice

The Virginia Advisory Committee on Juvenile Justice, formerly the Virginia Juvenile Justice and Delinquency Prevention Advisory Committee has established a Disproportionate Minority Confinement Subcommittee.

The Advisory Committee on Juvenile Justice has formed a Government Relations Subcommittee which has been active in monitoring and responding to proposed changes that affect children in the juvenile justice system.

New: Governor's Preventing Crime in Minority Communities Task Force

In November of 2003, Virginia's Governor Warner announced the appointment of a task force to meet with citizens around the State to address the issue of

³ Va. Code Ann. §9.1-102(40&41).

⁴ Subsequent to the submission of the Three-Year Plan Update, this bill has passed. The amendment to the Code of Virginia, §§ 16.1-250, 16.1-266, and 16.1-267 and repeal of § 16.1-250.1 are effective July 1, 2005.

preventing crime in minority communities. The Task Force has met once in Richmond and is scheduled to meet four times at various localities during 2004. The Task Force is staffed by DCJS personnel.

Training and Information Dissemination

Training of Detention Staff

No Change.

Juvenile Services Section Fact Sheet

No Change.

Juvenile Services Section Demographics Web Page

Update: The Juvenile Justice Demographics web page was updated with current information in the Summer of 2003. It is accessed frequently. For example, during the month of February, 2004, the Juvenile Justice Demographics web site was accessed 245 times.

Judicial Workshop

Update: DCJS staff presented information about disproportionate minority representation to Virginia juvenile and family court judges at their conference in April, 2003. Department of Juvenile Justice staff presented at an August judicial conference.

Community-Oriented Justice Conference

Update: Department of Juvenile Justice staff presented information about the new intake and secure detention assessment instruments at a workshop at the Community-Oriented Justice Conference in April 2003, attended by juvenile and criminal justice professionals from across Virginia.

Juvenile Justice and Delinquency Prevention Conference

Update: Disproportionate minority representation in the juvenile justice system was highlighted at the Juvenile Justice and Delinquency Prevention Conference in June, 2003 with a keynote address and a workshop on disproportionate minority representation. The issue will be addressed again at the upcoming conference in June of 2004.

Intake Stage

Race-Neutral Risk Assessment Instrument

No Change

Secure Detention Stage

Reducing the Number of Children in Secure Detention

In the Three-Year Plan, DCJS reported plans to gather data to determine whether children are being held in detention to ensure public safety or for lack of alternatives, lack of adequate representation, or as punishment. Unfortunately, these data are not yet being collected in a consistent manner. Data collection is improving and it is hoped that some of the data will be available in the coming years.

Addressing the Lack of Qualified Legal Counsel

The American Bar Association's report concerning the legal representation of juveniles in Virginia⁵ states that the system is uneven and has a disproportionate impact on poor and minority children. DCJS has identified lack of qualified legal representation as a problem in Virginia and included it in the Problem Statements. Lack of access to and representation by qualified legal counsel may lead to more children being detained, particularly African American children.

Update: DCJS is in the planning stages of arranging Challenge Grant funding for the Public Defender Commission to train public defender attorneys and attorneys of the private bar about mental health issues for juveniles in the juvenile justice system.

In addition, House Bill 600, described above under *Legislative Change* provides for the appointment and compensation of counsel prior to an initial juvenile detention hearing⁶

Race-Neutral Detention Instrument

The Department of Juvenile Justice has developed a race-neutral risk assessment instrument for use in making recommendations regarding detention. It was implemented in November, 2002.

Update: It was hoped that this initiative would reduce the number of minority youth in secure detention. However, the recommended decisions of the instrument are being overridden by Department of Juvenile Justice staff. DJJ has initiated training at Court Service Units to attempt to reduce the number of inappropriate overrides.

⁵ American Bar Association Juvenile Justice Center & Mid-Atlantic Juvenile Defender Center (2002). *Virginia: An Assessment of access to counsel and quality of representation in delinquency proceedings*. Washington, D.C.: American Bar Association

⁶ Subsequent to the submission of the Three-Year Plan Update, this bill has passed. The amendment to the Code of Virginia, §§ 16.1-250, 16.1-266, and 16.1-267 and repeal of § 16.1-250.1 are effective July 1, 2005.

Department of Juvenile Justice Detention Initiative

The Department of Juvenile Justice has undertaken an initiative with funding from the Annie E. Casey Foundation and a DCJS Juvenile Accountability Block Grant to increase the use of alternatives to secure detention. The project is being piloted in 4 secure detention homes and the associated 6 court service unit intake offices. Because lack of local alternatives is reputedly one of the reasons leading to detention, it is hoped that this initiative will reduce the number of African American juveniles in detention.

Update: To support this initiative, DCJS has awarded DJJ a Juvenile Accountability Block Grant of \$500,000 to allow those pilot localities participating in the Casey initiative to provide alternatives to detention.

PLAN FOR COMPLIANCE MONITORING

No change in policy or process.

THE MONITORING UNIVERSE AND CLASSIFICATION OF FACILITIES

Local Lockups; Local and Regional Jails

Currently, there are 85 local and regional jails in Virginia; 16 are certified to house juveniles.

Collocated Facilities

No Change.

Secure Juvenile Detention Facilities

Plans for the opening of the new juvenile secure detention facility in Virginia Beach have been delayed from 2003 until 2005.

Juvenile Correctional Centers

DJJ operates eight correctional centers for juveniles committed to state care. The Reception and Diagnostic Center (RDC) is the intake point for all juveniles committed to DJJ. State law precludes the confinement of status and non-offenders in these facilities. However, the *Code of Virginia* (16.1-275) does permit a juvenile who is alleged delinquent and predispositional to be placed in the custody of DJJ for up to 30 days for assessment. DJJ policy prohibits such placements. Recent legislation (HB1274) has been introduced to prohibit these placements. It has passed the House and is now before the Virginia Senate⁷.

State Adult Correctional Facilities

No Change.

INSPECTION & ON-SITE MONITORING

No change in process.

⁷ Since the submission of the Three Year Plan Update, this legislation has passed. The amendment to the Code of Virginia, §16.1-275, will be effective July 1, 2004.

Procedures for Uncovering, Investigating & Reporting Compliance Violations

No Change.

Corrective Action Plan

No Change.

Barriers to Maintaining a Monitoring System.

There currently are no barriers to maintaining a monitoring system.

DATA COLLECTION AND VERIFICATION

No change to process.

Jails

No Change.

Lockups

No Change.

Secure Detention Facilities

No Change.

Juvenile Correctional Centers

No Change.